

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

Rufino Muñiz Rivera, et al

v.

U.S.A.

RECEIVED
U.S. DISTRICT COURT
JUN 12 2002
CASE NUMBER: 98-2001 (HL)

MOTION

Date Filed: 5.31.02 **Docket #** 69 [] Plffs [x] Defts **Title:** Motion to dismiss

ORDER

Before the Court is a motion by the United States of America to dismiss the remaining claim in this case. In an opinion and order issued May 20, 2002, the Court dismissed all the claims against the Government, save a claim brought for the Government's alleged failure to take appropriate measures – such as building retaining levees – to stop rising flood waters. Docket no. 68, at 16-17. The Court assumed that this was a claim based on conduct by the Army Corps of Engineers, the agency charged with taking measures to stop such flooding. *See* 33 U.S.C. § 540.

The Government now moves to dismiss this remaining claim. On May 30, 2002, the Court held a status conference to discuss how to address this last claim. In the conference and in a subsequent motion (docket no. 71), Plaintiffs clarified that they were not bringing a claim based on actions of the Corps of Engineers; rather, all their claims were based on actions by the agencies that made the loans for the purchase of Plaintiffs' houses.

Based on this clarification, the Court holds that dismissal of this remaining claim is warranted for the reasons set forth in its May 20, 2002 opinion and order. That is, for those Plaintiffs who purchased their homes after June 12, 1980, their claims are dismissed because the regulations in effect imposed no duty upon the government agents. *See* docket no. 68, at 5-9. And for those who purchased their homes prior to June 12, 1980, their claims are dismissed on the grounds that they are time-barred. *See id.* at 9-16.

Accordingly, the Court grants the motion to dismiss. Judgment shall be entered accordingly.

Date 6-11-02

HECTOR M. LAFFITTE
Chief U.S. District Judge

(3)

(72) Jr